

Office of Chief Counsel
Internal Revenue Service
memorandum

CC:DOM:IT&A:B5:SPR-104405-98
JMFischer

date:

MAR 20 1998

to: Sheldon D. Schwartz

National Director, Tax Forms and Publications Division T:FP

from: David L. Crawford, Jr.

Chief, Branch 5

Income Tax and Accounting CC:DOM:IT&A:5

subject: Deductibility of Personal Property Tax by Lessee

This is in response to your memorandum dated February 23, 1998 regarding the deductibility of personal property tax by the lessee in a vehicle leasing transaction.

The issue was raised in a case where the Virginia personal property tax was separately stated on the lessee's monthly automobile lease statement. We conclude that the personal property tax item on that rent statement remains part of the rent, and cannot be deducted by the lessee under § 164 of the Internal Revenue Code.

As you stated in your memorandum, § 1.164-1(a) of the Income Tax Regulations provides in part that in general, taxes are deductible only by the person upon whom they are imposed. Section 1.162-11(a), regarding business expenses, provides in relevant part that taxes paid by a tenant to or for a landlord for business property are additional rent. Similarly, taxes paid by a tenant for nonbusiness property are also rent. Therefore, a tenant can not deduct a part of the rent payment as a payment of personal property tax.

If you have any questions you may contact John M. Fischer, 622-4950, of this office.

PMTA: 00199